



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,192	09/11/2003	Robert A. Cochran	10001362-2	5843

7590 06/07/2006

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

MCLEAN MAYO, KIMBERLY N

ART UNIT	PAPER NUMBER
----------	--------------

2187

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/660,192	COCHRAN, ROBERT A.
	Examiner Kimberly N. McLean-Mayo	Art Unit 2187

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 January 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

1. In view of the Appeal Brief filed on March 22, 2004, PROSECUTION IS HEREBY REOPENED. A detailed action is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground

provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 6,662,282. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-18 in US Patent No. 6,662,282 fully encompasses claims 1-20 in the instant application and thus claims 1-20 of the instant application is an obvious anticipation of claims 1-18 in US Patent No. 6,662,282 based on the anticipation doctrine of *In re Goodman*.

Application 10/660,192 claim 1

Patent 6,662,282 claim 1

<i>A data-consistent, distributed unified data set device group that stores a distributed unified data set, the distributed unified data set device group comprising:</i>	<i>A data-consistent, distributed unified data set device group that stores a distributed unified data set, the distributed unified data set device group comprising:</i>
<i>a first data storage component, within a first supervisor local data storage device, <u>that includes a unified sequence number component</u> and that stores a first portion of the distributed unified data set,</i>	<i>a first data storage component, within a first supervisor local data-storage array, that stores a first portion of the distributed unified data set, the first supervisor local data-storage array receiving WRITE</i>

<p><i>unified data set, the first supervisor local data-storage device receiving WRITE requests directed to the first portion of the distributed unified data set from a host computer via a communications medium;</i></p>	<p><i>requests directed to the first portion of the distributed unified data set from a host computer via a communications medium, the first supervisor local data-storage array including a controller that executes a unified sequence number component that provides sequence number for WRITE requests directed to the data-consistent, distributed unified data set device group and that executes controller functionality for receiving, carrying out and responding to WRITE requests received from a host computer;</i></p>
<p><i>a second data storage component within a second subordinate local data-storage device, that stores a second portion of the distributed unified data, the second subordinate local data-storage device receiving WRITE requests directed to the second portion of the distributed unified data set from the host computer via a communications medium;</i></p>	<p><i>a second data storage component, within a second subordinate local data-storage array, that stores a second portion of the distributed unified data, the second subordinate local data-storage array, the second subordinate local data-storage array including a controller that executes controller functionality for receiving, carrying out and responding to WRITE requests received from a host computer;</i></p>

a mirror unified data set that mirrors the distributed unified data set stored on one or more remote data-storage devices.	a mirror unified data set that mirrors the distributed unified data set stored on one or more remote data-storage arrays.
--	---

The italicized language indicates identical claim language. The underlined text indicates language that is identical is arranged/worded differently in the claims. The bolded text indicates language in the parent claim that is not included in the child claim.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly N. McLean-Mayo whose telephone number is 571-272-4194. The examiner can normally be reached on Mon, Wed, Thurs (10-4), Tues (9:45 - 6:15).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Sparks can be reached on 571-272-4201. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2187

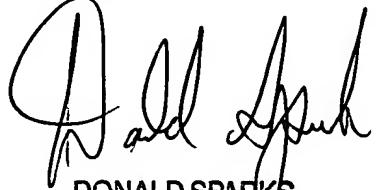
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KNM

May 23, 2006


KIMBERLY MCLEAN-MAYO
PRIMARY EXAMINER

Kimberly N. McLean-Mayo
Primary Examiner
Art Unit 2187


DONALD SPARKS
SUPERVISORY PATENT EXAMINER